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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 28 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASHOK POPATBHAI PATEL (PROCEEDING STOPPED) & ANR

Versus

JELESH ISHWARBHAI MODI

Appearance:

ABATED for Petitioner No.1

NOTICE SERVED for Respondent No. 1

MR MB PARIKH for Petitioner No.2

MR ST MEHTA ASSTT. PUBLIC PROSECUTOR

FOR State -Respondent No. 2

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 28/07/2000

ORAL JUDGEMENT

This Criminal Revision Application is filed by the original accused of Criminal Case No. 1943 of 1987

pending on the file of learned Metropolitan Magistrate, Court No. 16, Ahmedabad challenging the correctness, legality and propriety of the order dated 25th September, 1987 passed below Ex.1 filed by the present revision -opponent no.1.

2. Heard Shri M.B.Parikh, the learned advocate for the revision Petitioner No.2. On a query being made, Shri Parikh has submitted that the accused has straightway preferred this Criminal Revision Application to this court without exhausting a remedy available to him in the first lower revisional court i.e. the City Civil & Sessions Court, Ahmedabad. It is well settled principles of law that the revision petitioner must first exhaust the remedy available to him by filing revision petition in the first lower revisional court. Under the circumstances, Shri Parikh seeks permission to withdraw this Criminal Revision Application with a liberty to approach first Lower Revisional Court within two months. Leave is granted.

4. In view of the above, this Criminal Revision Application stands disposed of as withdrawn by the revision petitioner no.2 with a permission to file Criminal Revision Application in the City Civil & Sessions Court, Ahmedabad within two months. Rule is discharged. In the facts and circumstances of the case, ad-interim relief granted on 29th January, 1991 shall continue till 28th September, 2000.

Date: 29/7/2000. (H.H.MEHTA,J.)
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